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**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

National Fair Housing Alliance, Inc., et al., )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 A.G. Spanos Construction, Inc.; et al., )  
 )  
 Defendants. )  
 )

Case No. C07-3255 - SBA

**JOINT CASE MANAGEMENT  
 STATEMENT**

Date: April 9, 2008  
 Time: 2:30 p.m. (PDT)  
 Courtroom: 3 (Telephonic)

1 The parties in the above-entitled action jointly submit this Joint Case Management  
2 Statement and Proposed Order and request the Court to adopt it as its Case Management Order in this  
3 action. Plaintiffs are represented by Relman & Dane PLLC. A.G. Spanos Construction, Inc., A.G.  
4 Spanos Development, Inc., A.G. Spanos Land Company, Inc., A.G. Spanos Management, Inc. and The  
5 Spanos Corporation (hereinafter, the “Spanos Defendants”) are represented by Freeman, D’Aiuto, Pierce,  
6 Gurev, Keeling & Wolf, PLC. Knickerbocker Properties, Inc. XXXVIII (hereinafter, “Knickerbocker”)  
7 is represented by Allen Matkins Leck Gamble Mallory & Natsis LLP. Highpointe Village, L.P.  
8 (hereinafter, “Highpointe”) is represented by Manatt, Phelps & Phillips, LLP. Collectively,  
9 Knickerbocker and Highpointe are referred to as the “Owner Defendants.”  
10

11 **1. Jurisdiction and Service:**

12 The Court has subject matter jurisdiction over plaintiffs’ claims herein under 28 U.S.C. §§1331  
13 and 1332, and 42 U.S.C. §3613(a). Further, the Court may exercise personal jurisdiction over the  
14 Spanos Defendants and the Owner Defendants. All of these Defendants have been served. Venue is  
15 proper in this district as Defendants either reside in this district or have property in the district with  
16 alleged violations giving rise to the claims in this action.  
17

18 **2. Facts:**

19 Plaintiffs allege that the Spanos Defendants are liable for the design and construction of at least  
20 10,000 units in 82 apartment complexes that do not meet the accessibility requirements of the federal Fair  
21 Housing Act (hereinafter, “FHA”), 42 U.S.C. §3604(f), and therefore make them inaccessible to people  
22 with disabilities. Plaintiffs are fair housing agencies who claim that their missions have been frustrated by  
23 these alleged violations of the FHA and who claim to have had to divert resources from other objectives  
24 in order to combat these alleged violations.  
25

26 **3. Legal Issues:**

27 Plaintiffs allege that the Spanos Defendants have, in failing to design and construct accessible  
28 apartment units and common areas, violated 42 U.S.C. §§3604(f)(1), 3604(f)(2) and 3604(f)(3)(C).

1 Through their pending motions (see Paragraph 4, below), Defendants contend that Plaintiffs lack standing  
2 to bring claims under the FHA, that Plaintiffs have failed to state a cause of action or claim for injunctive  
3 relief, and that claims with respect to certain apartment complexes are time-barred. In addition, the  
4 Spanos Defendants contend that Plaintiffs have failed to join certain parties that the Spanos Defendants  
5 contend are required under Fed.R.Civ.P. 19.

6  
7 **4. Motions:**

8 On December 21, 2007, the Spanos Defendants filed four motions with the Court. These include  
9 (1) a Motion to Dismiss Plaintiff's First Amended Complaint or, Alternatively, for Partial Dismissal of  
10 Plaintiff's First Amended Complaint [Doc. 48; Memorandum, Doc. 48-3]; (2) a Motion for More Definite  
11 Statement [Doc. 50; Memorandum, Doc 50-2]; (3) a Motion to Dismiss Plaintiffs' First Amended  
12 Complaint for Failure to Join Necessary and/or Indispensable Parties [Doc. 49; Memorandum, Doc. 49-  
13 3]; and (4) a Motion to Strike Various Claims for Relief [Doc. 52; Memorandum, Doc. 52-2]. All four  
14 have been fully briefed and are pending before the Court.

15 On December 21, 2007, Knickerbocker and Highpointe both filed Motions to Dismiss pursuant to  
16 Fed.R.Civ.P. 12(b)(6). These motions have been fully briefed and are pending before the Court. As  
17 alternative relief, Knickerbocker has asked that this case be stayed pending the Ninth Circuit's decision in  
18 *Garcia v. Brockway* (in which *en banc* argument is set for March 25, 2008).

19  
20 **5. Amendment of Pleadings:**

21 The initial complaint herein was filed on June 20, 2007 and the First Amended Complaint was  
22 filed on October 12, 2007. While not anticipating the need to further amend the pleadings, Plaintiffs  
23 reserve the right to do so in response to facts learned in discovery, and to do so by August 1, 2008.

24  
25  
26  
27 **6. Evidence Preservation:**

28 The parties jointly represent to the Court that they have taken appropriate steps to preserve

evidence relevant to the issues reasonably evident in this action, including interdiction of any document-destruction program and any ongoing erasures of e-mails, voice mails, and other electronically stored information.

**7. Disclosures:**

The parties have not yet made initial disclosures. They will do so within 30 days of the Court's ruling on the pending motions.

**8. Discovery:**

To date, no discovery has been propounded.

**LIMITATIONS:**

- Depositions: 15 per side
- Interrogatories: 100 per side
- Requests for Admission: 100 per side

The parties also agree that the party serving written discovery will also send opposing counsel the discovery requests through a computer-readable format (e.g. email or CD) to facilitate compliance with Local Rule 33-1. Initial disclosure documents and documents submitted in response to discovery requests will be Bates-stamped, with the prefixes indicated below, and starting at 00001:

- |   |   |      |
|---|---|------|
| • | Plaintiffs (when responding collectively)             | PL   |
| • | National Fair Housing Alliance:                       | NFHA |
| • | Fair Housing of Marin                                 | FHOM |
| • | Fair Housing Napa Valley                              | FHNV |
| • | Metro Fair Housing                                    | MFH  |
| • | Fair Housing Continuum                                | FHC  |
| • | A.G. Spanos Defendants (when responding collectively) | DEF  |
| • | A.G. Spanos Construction, Inc.                        | AGSC |
| • | A.G. Spanos Development, Inc.                         | AGSD |
| • | A.G. Spanos Land Company, Inc                         | AGSL |



1 public use areas for which any of them had a role in the design and construction since March 13, 1991,  
2 and to assess the compliance of each with the accessibility requirements of the FHA; (6) report to the  
3 Court the extent of noncompliance of these properties with the FHA; and (7) bring each and every  
4 apartment community into compliance with the FHA and applicable regulations.

5 Plaintiffs seek compensatory and punitive damages as are proper under law. The precise amount  
6 of these damages (and attorneys' fees and costs) cannot now be ascertained.

7 Plaintiffs also seek injunctive relief, including appropriate fees and costs against the current  
8 owners of the 82 properties that Plaintiffs allege are FHA-noncompliant (for whom Plaintiffs seek to  
9 certify Knickerbocker and Highpointe as defendant class representatives), requiring them to permit the  
10 retrofits ordered by the Court to be made in their respective properties, to comply with such procedures  
11 for inspection and certifications of the retrofits performed as may be ordered by the Court, and to  
12 perform or allow such other acts as may be necessary to effectuate any judgment against the Spanos  
13 Defendants.

14  
15 **12. Settlement and ADR:**

16 While the parties have cooperated with the Court's ADR office in conducting preliminary  
17 discussions, the parties believe that they must commence discovery before they can assess the likelihood  
18 that a resolution might be negotiated.

19  
20 **13. Consent to Magistrate Judge For All Purposes:**

21 Not all parties consent to a magistrate judge.

22  
23 **14. Other References:**

24 The parties believe this case is not suitable for reference to binding arbitration, a special master, or  
25 the Judicial Panel on Multidistrict Litigation.

26  
27 **15. Narrowing of Issues:**

28 The issues to be tried may be narrowed by the pending motions. The presentation of evidence at

1 trial may be expedited by comprehensive surveys of each apartment complex by the parties' experts, the  
2 summary reports derived therefrom and attempts by the parties to stipulate to the compliance or  
3 noncompliance of elements at each such apartment complex.

4  
5 **16. Expedited Schedule:**

6 Because of the factual complexity of this case, the parties do not believe it is the type of case that  
7 can be handled on an expedited basis with streamlined procedures.

8  
9 **17. Scheduling:**

10 Factual discovery cut-off: April 1, 2009.

11 Expert disclosure: July 1, 2009

12 Rebuttal expert disclosure: September 1, 2009

13 Expert discovery cut-off: November 1, 2009

14 Last hearing date for dispositive motions: February 15, 2010

15 Pretrial conference: April 1, 2010

16 Trial: May 1, 2010

17  
18 **18. Trial:**

19 Plaintiffs have demanded a jury trial. Defendants believe Plaintiffs' equitable claims should be  
20 tried to the Court. The length of trial proceedings will depend to such a degree on events yet to occur  
21 that the parties believe it may be impossible to meaningfully estimate the length of such a trial.

22 **19. Disclosure of Non-party Interested Entities or Persons:**

23 All parties have filed their respective Certifications of Interested Entities or Persons required by  
24 Civil Local Rule 3-16.

25 Plaintiffs certify that no persons, firms, partnerships, corporations (including parent corporations)  
26 or other entities known by them have either a financial interest in the subject matter in controversy or in a  
27 party to the proceeding; or any other kind of interest that could be substantially affected by the outcome  
28 of the proceeding.

1 **20. Other Matters:**

2 As of the filing of the Joint Case Management Statement, the parties are unaware of other matters  
3 that may facilitate the just, speedy and inexpensive disposition of this matter.  
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1  
2 Dated: March 21, 2008

3  
4 Respectfully submitted,

5 /s/ Michael Allen  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this the 21<sup>st</sup> day of March 2008, I filed the foregoing Joint Case Management Statement with the Court's ECF System, which sent electronic notice to:

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